

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Interconnection and Resale Obligations)
Pertaining to)
Commercial Mobile Radio Services)

CC Docket No. 94-54

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**REPLY COMMENTS OF CONNECTICUT TELEPHONE
AND COMMUNICATION SYSTEMS, INC.**

Connecticut Telephone and Communication Systems, Inc. ("Connecticut Telephone"), pursuant to Section 1.415 of the Commission's Rules, hereby replies to the comments filed by various parties in response to the *Second Notice of Proposed Rulemaking*, FCC 95-149 (April 20, 1995) ("*Second NPRM*") in this proceeding. In its comments in this proceeding Connecticut Telephone voiced strong support for the Commission's tentative conclusion to adopt a general resale obligation for Commercial Mobile Radio Service ("CMRS") providers, and opposed the Commission's inclination not to adopt the reseller switch proposal earlier espoused by the National Wireless Resellers Association ("NWRA," formerly NCRA) and CSI/ComTech. Connecticut Telephone explained its belief that a general resale obligation combined with a policy encouraging switch-based resale would both foster greater competition among CMRS providers and, in particular, provide a means for small businesses to participate in the deployment of PCS.

Not surprisingly, the positions of the parties on these subjects were quite predictable, with cellular resellers closely aligned to Connecticut Telephone's position,¹ and

¹See, e.g., Comments of Cellular Service, Inc. and Comtech Mobile Telephone Company, pp. 10-12; Comments of Time Warner Telecommunications, pp. 14-17, 19-21; Comments of The National Wireless Resellers Association.

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cellular carriers generally opposed to a resale obligation for CMRS providers, and opposed to the switch-based resale proposal.² Predictable also were the arguments of the carriers, who resurrected decades-old arguments against interconnection which the Commission long ago rejected. In particular, the cellular carriers allege that allowing resellers to directly connect their switches to the network is economically unreasonable, technical infeasible, and contrary to the public interest. As demonstrated below, these arguments are as without merit now as they were when they were first raised years ago.

At the outset, it bears noting that the comments reflect a clear predisposition on the part of cellular carriers against reseller switches, such that a policy which relies on good faith negotiations between carriers and resellers is inevitably doomed to fail. Indeed, the experiences of resellers to date, as reflected in their comments, constitute evidence of this predisposition and the paralyzing effect it has on the economic viability of resellers. For example, CSI and ComTech explain in their comments that they have for years attempted to negotiate switch-based resale arrangements with cellular carriers in California, but to no avail.³ Similarly, at least three other cellular resellers have filed complaints with the Commission documenting the refusal of cellular carriers to provide interconnection.⁴

Connecticut Telephone explained in its comments that it has attempted for over five months to negotiate an interconnection arrangement with Springwiche Cellular Limited

²See, e.g., Comments of SNET Cellular, Inc., pp. 8-10; Comments of Comcast Cellular Communications, Inc., pp. 23-31.

³Comments of CSI/ComTech, p. 3.

⁴See Second NPRM, n. 197; Comments of Telecommunications Resellers Association, p. 24.

Partnership ("SCLP"), a subsidiary of Southern New England Telephone, and has met with typical delaying tactics such as lengthy periods for responses and multiple requests for technical information.⁵ Thus, Connecticut Telephone's plans to offer new services based on installing a switch have been blocked thus far.

SNET Cellular, Inc. ("SNET Cellular"), the parent of SCLP's General Partner, not surprisingly comments that ". . . the reseller switch proposals have not yet demonstrated their economic merit or technical feasibility."⁶ Although it indicates that it has not evaluated in detail a reseller switch interconnection request, SNET Cellular concludes that, based on other carriers' experiences, "the increased costs associated with NCRA's reseller switch proposal may possibly outweigh the benefits of interconnection for switch-based resale."⁷ Moreover, SNET Cellular provides reasons for the alleged increased costs without mentioning a single benefit. Thus, without any direct knowledge of, or experience with, a detailed interconnection request, SNET Cellular has concluded that the costs of such a proposal will outweigh the benefits.

Perhaps even more telling is SNET Cellular's recommendation that because the costs may outweigh the benefits, ". . . the Commission should permit the competitive market to determine whether a request for reseller switch-based interconnection is economically and technically feasible."⁸ Given their stated predisposition, SNET Cellular in

⁵Comments of Connecticut Telephone, pp.7-8.

⁶Comments of SNET Cellular, p. 10.

⁷*Id.*

⁸*Id.* at 10.

reality is saying that the Commission should permit the cellular carriers to determine whether such a request is economically and technically feasible. Left to their own devices, there can be little doubt that cellular carriers will never find a reseller switch proposal that satisfies their interpretation of the test.⁹ For this reason, Connecticut Telephone reiterates that, absent some Commission directive, switch-based resale will remain illusory.

A. The Comments Do Not Support The Cellular Carrier's Arguments That Switch-Based Resale is Technically Infeasible.

The cellular carriers have taken the opportunity provided by this proceeding to again argue that the Commission should reject switch-based resale as technically infeasible.¹⁰ The carriers raise essentially three arguments. First, they claim that a reseller switch does not currently exist, and even if one did, they argue it would necessitate wholesale changes to a carrier's cell site and switching hardware and software.¹¹ By overstating the issue, the carriers are attempting to obscure the simple fact that a reseller switch, while complex, does not require a great leap in technology. Switches can be economically integrated into cellular networks in a manner similar to the way new switching equipment is integrated into all networks. The Commission should not take at face value the idea that interconnecting a

⁹The predisposition of cellular carriers against reseller interconnection is by no means unique to SNET Cellular. *See, e.g.*, Comments of Comcast Cellular Communications, Inc., pp. 27-30; Comments of Vanguard Cellular Systems, Inc., p. 13.

¹⁰*See, e.g.*, Comments of CTIA, pp. 37-39; Comments of Vanguard Cellular Systems, Inc., p. 14.

¹¹*See, e.g.*, Comments of CTIA, p. 38.

reseller's switch will require such massive investment as to be prohibitive.¹²

In fact, the resellers have indicated in their comments that the very manufacturers of the carrier's switching systems are designing and manufacturing reseller switches which will be compatible with the carriers' systems and available in the near future.¹³ These switches are specifically designed to minimize any technical disruption to the cellular carriers' network, thereby minimizing the costs of switch interconnection.¹⁴

The second argument raised by carriers regarding technical infeasibility asserts that interposing a reseller switch between the carrier and the LEC will degrade the quality of the cellular service and eliminate roaming capabilities.¹⁵ SNET Cellular, for example, opines that a mobile-to-mobile call routed through a reseller's switch ". . . may not only increase the cost of providing service, it may also degrade the quality of the performance of the

¹²Connecticut Telephone again notes that because the cellular carriers have clearly taken a hostile stance regarding the technical feasibility of reseller switches, resellers cannot reasonably expect to receive the carrier's "good faith" in interconnection negotiations.

¹³*See, e.g.*, Comments of CSI/ComTech, p. 4. Connecticut Telephone notes that the unwillingness of carriers to negotiate switch-based interconnection arrangements has severely hampered the resellers' ability to raise capital to finance the acquisition of state-of-the-art switches capable of providing services currently unavailable to customers of the cellular carriers. For example, if Connecticut Telephone were permitted to interconnect its switch to SCLP's network, it could offer services which SCLP does not offer, including customized billing services and enhanced fraud protection. This is precisely the kind of spur to research and development that the Commission has recognized as a primary benefit of resale. *See Resale and Shared Use*, 60 FCC 2d 261, 302 (1976). *See also* Comments of NWRA, pp. 5-7.

¹⁴Because the resellers will bear these costs, it is obviously in their interests to keep them to a minimum.

¹⁵*See* Comments of Vanguard Cellular Systems, p. 14 (citing Comments of McCaw Cellular filed Sept. 12, 1995, at 15).

cellular network"¹⁶ These, of course, are the same tired arguments raised by the telephone companies prior to their rejection by the *Hush-A-Phone* decision.¹⁷

Finally, the cellular carriers point out that the reseller's switch would duplicate functions performed by cellular systems, without relieving the carriers of their own obligation to perform these functions, and that such duplication is wasteful and an inefficient allocation of resources.¹⁸ This duplication-of-facilities argument is particularly interesting for it clearly exposes the mindset that the carriers bring to the table on the subject of switch-based resale. Of course a reseller switch is a duplication of facilities. So are the facilities of multiple long distance carriers, and two cellular carriers and four PCS providers in each market. The cellular carriers would obviously prefer not to have any duplication of facilities, provided the facilities being used are theirs. Duplication of facilities in this context is another name for competition, not inefficiency. The Commission should not validate the carriers monopolistic mindset which assumes that they should be the sole keepers of the gateway of switch-based services.

B. The Comments Show That Switch-Based Resale of CMRS is Economically Reasonable.

In the carriers' offhanded balancing of the costs and benefits of switch-based resale, they are naturally heavy on the costs and light on the benefits. For example, even after stating that it has not itself evaluated a detailed reseller switch interconnection request,

¹⁶*Id.*, p. 9.

¹⁷*Hush-A-Phone Corp. v. U.S.*, 238 F.2d 266 (D.C. Cir. 1956). *See also* Comments of Telecommunications Resellers Association, pp. 12-14; Comments of CSI/ComTech, p. 10.

¹⁸*See, e.g.*, Comments of Vanguard Cellular Systems, p. 14; Comments of CTIA, p.39.

SNET Cellular is nevertheless able to conclude that "the increased costs of reseller switch-based interconnection, as well as the resulting duplication of facilities, might not outweigh any benefits associated with requiring such interconnection."¹⁹ The carriers' argument that to provide the component costs of providing service required for the reseller switch proposal is costly and complex²⁰ again says more about the carriers' mindset than it does about the perceived difficulty or expense associated with implementing the reseller switch proposal.

To be successful in a competitive market (which the cellular carriers argue the cellular market is), the one thing a business absolutely must know is how much it costs to produce its product or service. Few will argue that the cellular carriers have not been successful. Thus, for the carriers to suggest that they do not already know the exact cost of each component of their service is implausible. The truth, of course, is that the carriers know precisely the cost of each component of their network, but are simply suggesting that to unearth these figures would entail an undertaking so costly and complex as to make unbundling economically infeasible. They fear that any analysis of their cost elements would reveal that they do not base prices on costs, but instead on what the market will bear. This, in turn, would expose the fact that the cellular market is not, in fact, competitive -- a conclusion the carriers would obviously prefer to keep obscured.

The carriers also attempt to hide behind the perceived complexity of their systems, overstating what unbundled micro-components a reseller would want to see separately priced. In reality, resellers desire simply to separate air time from switching.

¹⁹*Id.*

²⁰*See, e.g.,* Comments of CTIA, p. 32.

The individual components of these two basic elements, while important for determining cost-based pricing, are generally not of interest to a reseller in the sense that the carriers suggest. If the carriers provided the resellers cost-based pricing which merely separated airtime from switching, Connecticut Telephone, and in all likelihood most resellers, would be satisfied. Within those categories, Connecticut Telephone has little interest in picking and choosing which minute components it wants to buy separately.

Finally, the carriers' argument that unbundling will require costly changes to the network in the form of additional nodes, ports and software modifications, fails to recognize that the legitimate costs associated with interconnecting a reseller's switch will be borne by the reseller, at no cost to the carrier or to the public.²¹ The carriers further suggest that the reseller switch proposal will place significant administrative burdens on the Commission and provide disincentives to investment due to the "free rider" problem.²²

As Connecticut Telephone and others noted in their comments, the administrative burden on the Commission associated with *not* implementing the reseller switch proposal will likely exceed the burden that the carriers ascribe to requiring unbundling and interconnection.²³ Absent a clear policy directive or rule covering switch-based resale, the status quo and the carriers' continued intransigence will force more resellers to resort to the time-consuming complaint procedures under Section 208 of the Communications Act.

Similarly, Connecticut Telephone disagrees with the carriers' allegations that

²¹*Id.* at 33

²²*Id.*

²³Comments of Connecticut Telephone, pp. 6-9; Comments of NWRA, pp. 9-10.

the proposed unbundling creates a "free rider" problem in which a reseller does not pay its fair share of the costs of a service it receives. Unbundling is premised on the assumption that the carrier is compensated for its costs to provide the unbundled services. The carriers nevertheless persist in arguing that switch-based resellers are getting something for nothing, when in fact, the carriers will be fairly compensated for all unbundled elements.

C. The Comments Do Not Support the Carriers' Arguments That Switch-Based Resale Disserves the Public Interest.

While much of the preceding discussion has already identified many of the positive public interest implications of the reseller switch proposal, some specific carrier allegations remain to be addressed. For instance, the cellular carriers claim that switch-based resale will impair Congress' and the Commission's goal of achieving a seamless, nationwide wireless network.²⁴ Connecticut Telephone submits that this goal and the adoption of the reseller switch proposal are not incompatible. The Commission can establish a national regulatory policy on interconnection which promotes switch-based resale, and the States can implement that policy.

Moreover, Connecticut Telephone fully agrees with the goal of a seamless, national wireless infrastructure, but understands that to mean a network of networks based on open architectures and widespread connectivity. The cellular carriers' vision of the national wireless infrastructure, however, appears to be based on limiting access and interconnection to those providers already participating in the infrastructure.

As Connecticut Telephone set forth in its comments, a switch-based resale

²⁴See, e.g., Comments of SNET Cellular, pp. 11-12.

policy provides perhaps the only real opportunity for small business to participate in facilities-based network services. Connecticut Telephone asserts that switch-based resale would provide a very real means for small business to participate in PCS either in conjunction with, or separate from, the Commission's licensing of PCS spectrum. Connecticut Telephone believes that a policy promoting reseller switches will enable small business PCS entrepreneurs to construct the component parts of a PCS network in a financially manageable manner.

Significantly, the opportunity afforded a small business interested in participating in PCS by a resale switch is independent of whether the entity manages to acquire spectrum at auction. While perhaps a few hundred small businesses will be fortunate enough to participate and win in the upcoming PCS auctions, many hundreds others could carve out a niche in the nation's wireless infrastructure by offering switching facilities and services based on reseller switches.

Respectfully submitted,

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July 14, 1995

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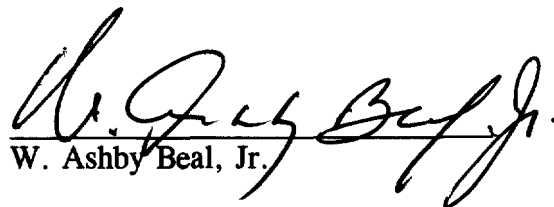
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